

**REMARKS**

Prior to entry of this Amendment:

- Claims **1-8, 15, 33, and 34** were pending in the present application
- Claims **1-8, 15, 33, and 34** stand rejected

Upon entry of this Amendment, which is respectfully requested for the reasons set forth below:

- Claims **1-8, 15, and 33, 35 - 43** will be pending
- Claim **34** will be cancelled.
- Claims **1 - 8, 15, 33 - , 35 - 41** will be amended
- Claims **1, 15, 33, 34, and 41** will be the only independent claims

Each of claims **1, 2, 5 - 8 and 33 - 43** stands rejected under 35 U.S.C. §103(a) as being unpatentable over Betmaker.com of record ("Betmaker" herein). Each of claims **3, 4 and 15** stands rejected under 35 U.S.C. §103(a) as being unpatentable over Betmaker in view of U.S. Patent No. 6,077,163 to Walker et al. ("Walker" herein).

Applicants have amended each of the pending independent claims **1, 15, and 33** have been amended herein to recite that the "predetermined amount" is distinct from a "minimum wager amount" that may be required for play of a game. Comparing a selected wager amount to a predetermined amount that is distinct from a minimum wager amount that may be required for play of a game is not taught or suggested by Betmaker. It follows then that outputting a confirmation message if the selected wager amount is greater than the predetermined amount [that is distinct from the minimum wager amount] is not taught or suggested by Betmaker. Applicants have further amended claims **1 and 33** to recite that the wager amount selected is accepted and a confirmation message is not output if the wager amount selected is not greater than the predetermined amount. Such an additional feature is also not taught or suggested by Betmaker. Applicants have amended claim **15** in a similar manner, specifying that if the confirmation information is not to be presented to the player, because the predetermined cost to play the game is not greater than a predetermined cost, initiating play of the wagering game without presenting the confirmation information to the player.

Applicants respectfully submit that the now claimed embodiments provide advantages and benefits that Betmaker is not concerned with and that it would not

have been obvious to one of ordinary skill in the art to modify Betmaker to include the above-discussed features of the claimed embodiments.

First, the confirmation message described in Betmaker is provided in response to a player request and not in response to any comparison of the bet to a predetermined amount, much less a predetermined amount that is distinct from a minimum wager (“Once you have chosen your bets and clicked “Place Bets,” you will be taken to a confirmation page...”, under the “Betting Guide” screen of the website). Even if Betmaker were modified as suggested by the Office, such a modification still would not result in a confirmation message being output based on whether a wager amount selected is greater than a predetermined amount that is distinct from a minimum wager because Betmaker is completely devoid of such a predetermined amount.

Second, the confirmation message described in Betmaker is simply provided as a record for the player, to aid the player in tracking bets made. Acceptance of a bet is not dependent on the confirmation message. Betmaker explicitly states that a bet may be accepted irrespective of whether a confirmation message was received by the player, although the bet will only be guaranteed if the confirmation message is received (see third bullet on page 2, the second page under the heading “General” which states that “Online bets are not guaranteed unless the customer receives a confirmation message. However, bets will be valid...whether or not you receive the confirmation message.”).

Third, the confirmation message as described by Applicants is provided to help prevent any potential confusion that players may experience (e.g., from new games or rules, complicated wagering decisions that may result from multi-line bets or otherwise or simply from the player not paying sufficient attention when initially placing a bet). Applicants are concerned with helping players inadvertently bet more than they are comfortable with or that they should feel comfortable betting. Betmaker does not express any such concerns. Quite the contrary, in the fifth bullet under the heading “General” that describes the Betmaker rules and regulations, Betmaker clearly disavows any concerns or liability with the magnitude of a player’s wagers (“It is the customers’ responsibility to ensure that the details of their bets are correct...Check all bets carefully...”). Like most entities, it is most likely that Betmaker would welcome large wagers made by player in order to increase their profits and there is nothing in the record to suggest that Betmaker would have wanted to take the chance of a player being discouraged from making a relatively large wager by providing them with a confirmation screen at times when the wager magnitude may be of concern. Applicants respectfully request that the Office be very careful about using the

hindsight learned from reading Applicants' disclosure when interpreting or modifying the reference.

Since Walker does not cure the above-discussed deficiencies of Betmaker, Applicants respectfully submit that each of claims **3, 4 and 15** are patentable over the combination of Walker and Betmaker at least for the same reasons as discussed with respect to claims **1, 15 and 33** above.

Further, Applicants respectfully submit that each of the claims dependent from claims **1 and 33** are patentable at least for the same reasons as given for claims **1, 15 and 33**.

With respect to claim **41**, Applicants respectfully submit that it would not be obvious to modify Betmaker to "display[] a confirmation message if the determined ration is greater than a predetermined ration." Again, Betmaker is only concerned with helping players place bets with efficiency. Betmaker is quite unconcerned with the player's well-being and there is nothing in Betmaker to suggest that a confirmation message's output is in any manner dependent on a ration of a wager amount to a balance available, even with the Office's suggested modification. Again, Betmaker puts the onus completely on the player to take responsibility for their bets and disavows any concern about even mistakes the player may make in placing a bet, much less concern with helping the player pre-emptively understand a magnitude or significance of his bet ("It is the customers' responsibility to ensure that the details of their bets are correct...Check all bets carefully..."). In Betmaker, any time a player clicks on "Place Bets" he is taken to a confirmation page. There are no other triggers for the confirmation page described and there is no substantial evidence in the record to indicate such a modification would have been obvious to one of ordinary skill in the art. Again, Applicants' own disclosure cannot be used against them in determining what a person of ordinary skill in the art would have been motivated to do to modify a reference. For this reason, Applicants respectfully request reconsideration of the rejection of claim **41**.

**Authorization to Charge Appropriate Fees & Petition for Extension of Time to Respond**

Applicants believe that a three-month extension of time is necessary for this response. Accordingly, please grant a petition for a three-month extension of time.

Please charge any appropriate fees necessary per the following information:

Deposit Account: 50-0271

Order No.: 03-018

Please credit any overpayment to the same account.

**A. Conclusion**

It is submitted that all of the claims are in condition for allowance. The Examiner's early re-examination and reconsideration are respectfully requested.

If the Examiner has any questions regarding this amendment or the present application, the Examiner is cordially requested to contact Magdalena Fincham via the contact information provided below.

Respectfully submitted,

May 26, 2009

Date

/Magdalena M. Fincham, 46.085/

Magdalena M. Fincham

Attorney for Applicants

Registration No. 46,085

mfincham@walkerdigital.com

(203) 461-7041 /voice

(203) 461-7300 /fax